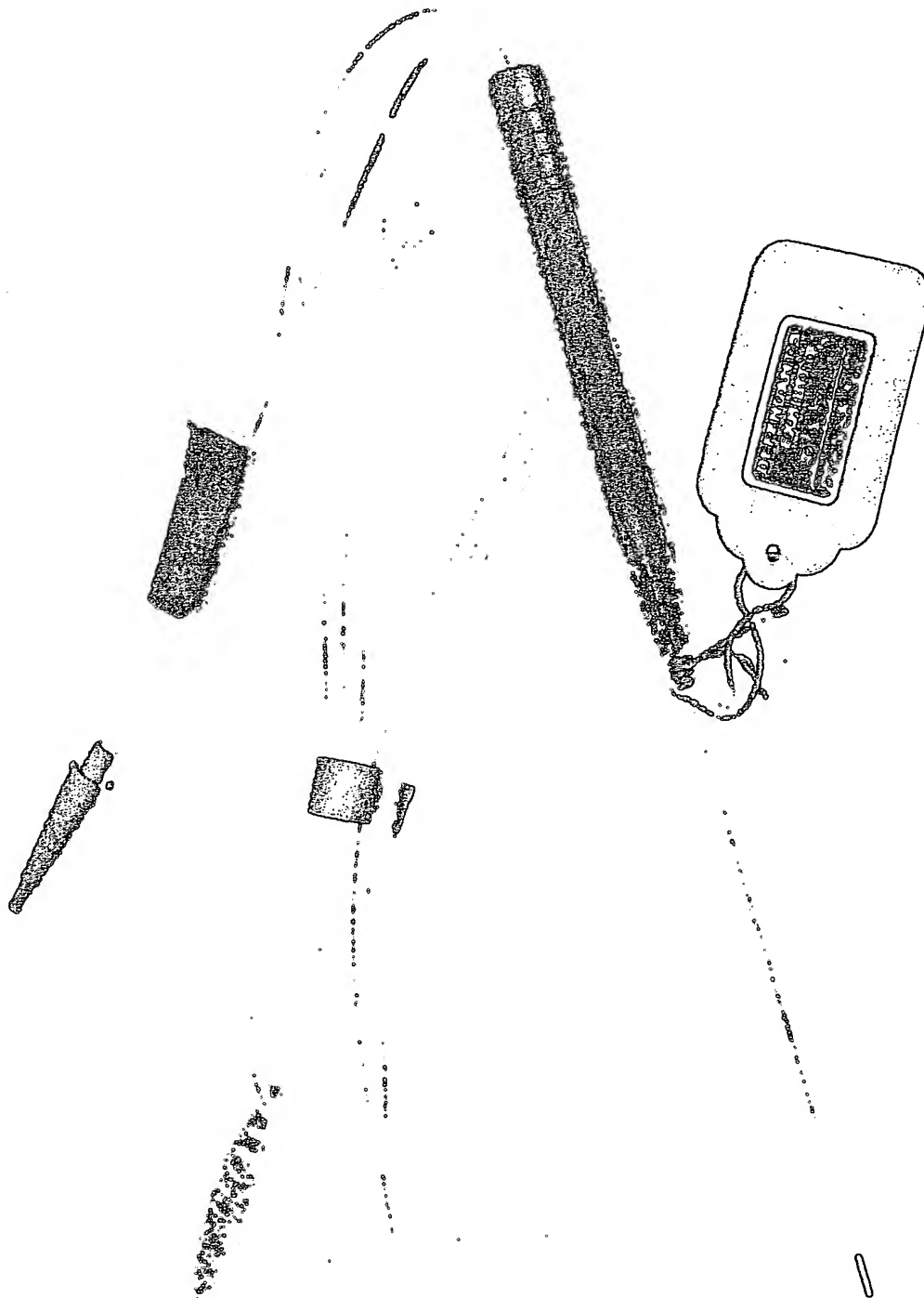


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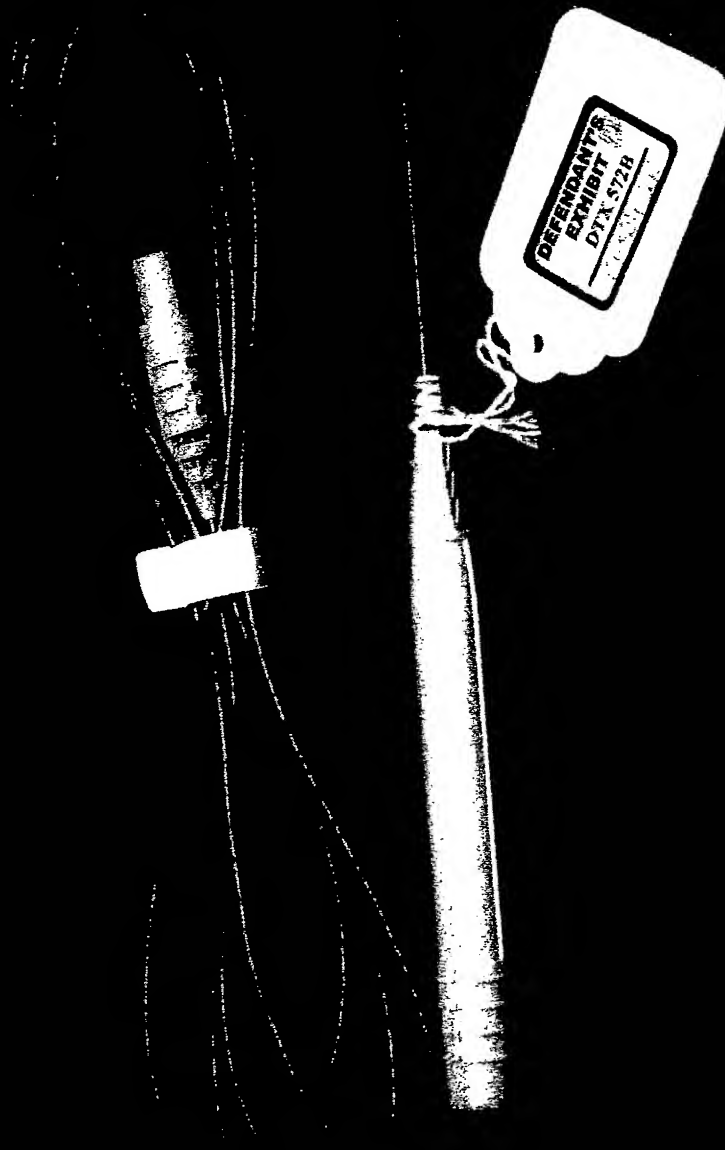
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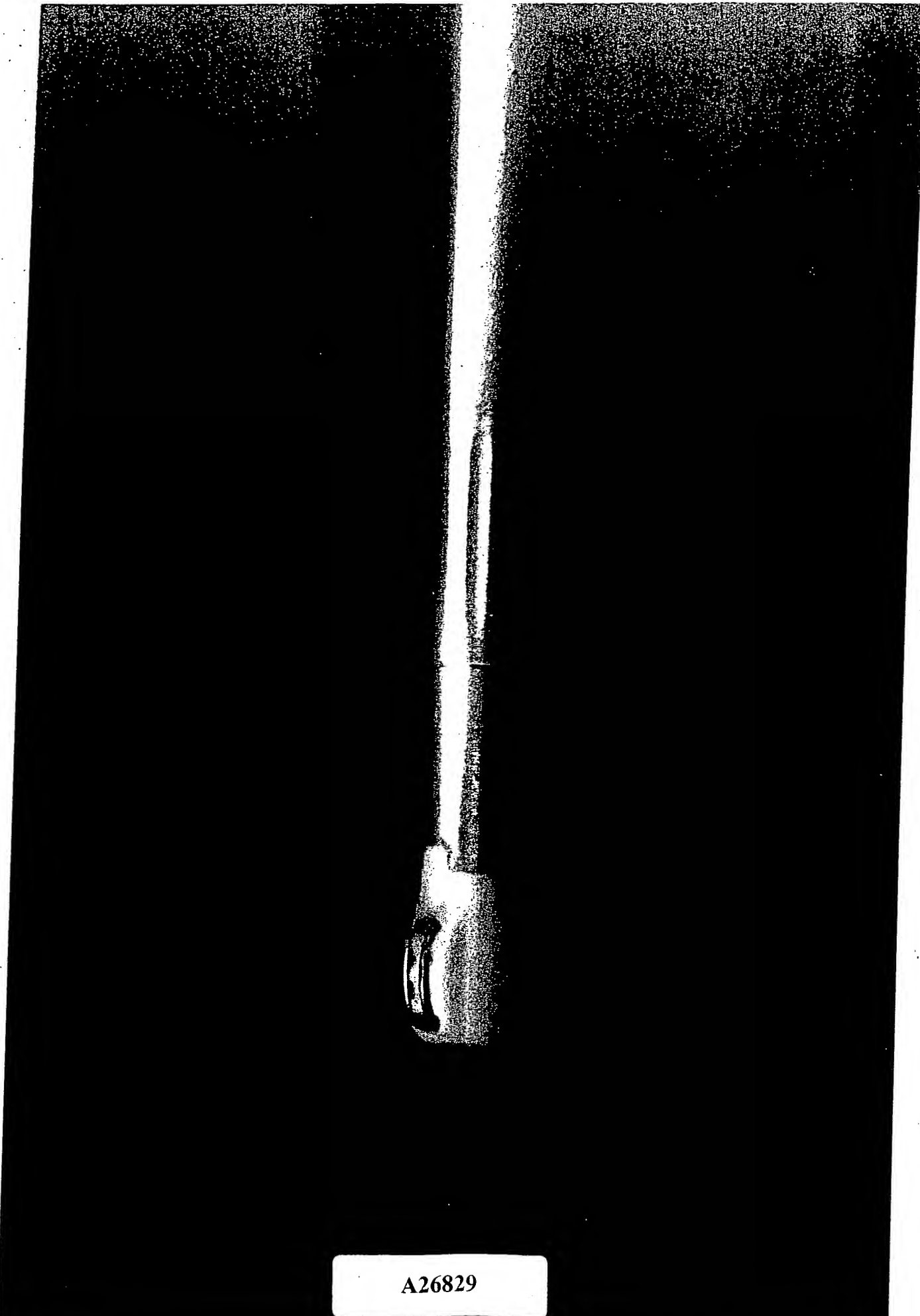
Plastic
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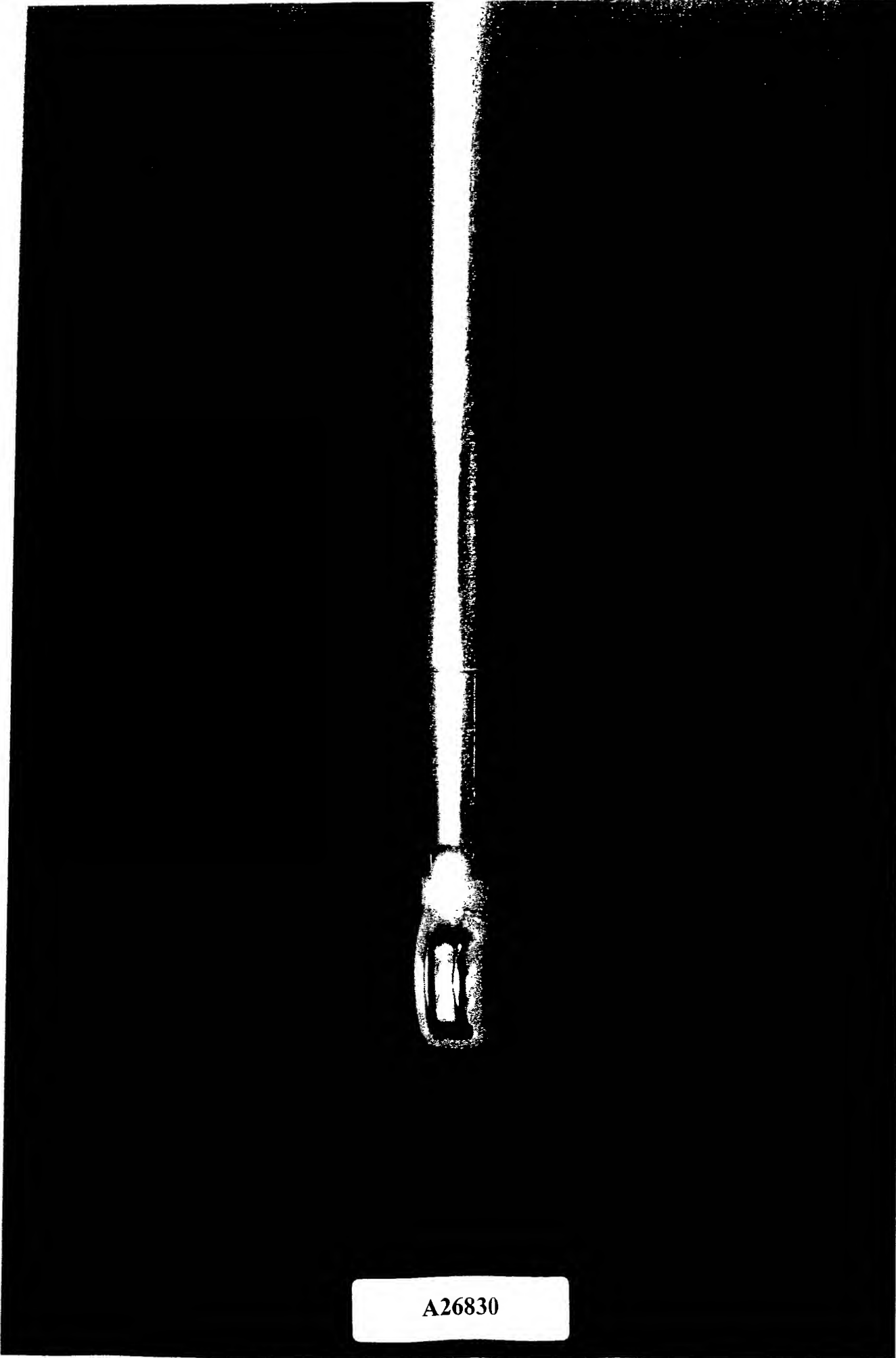
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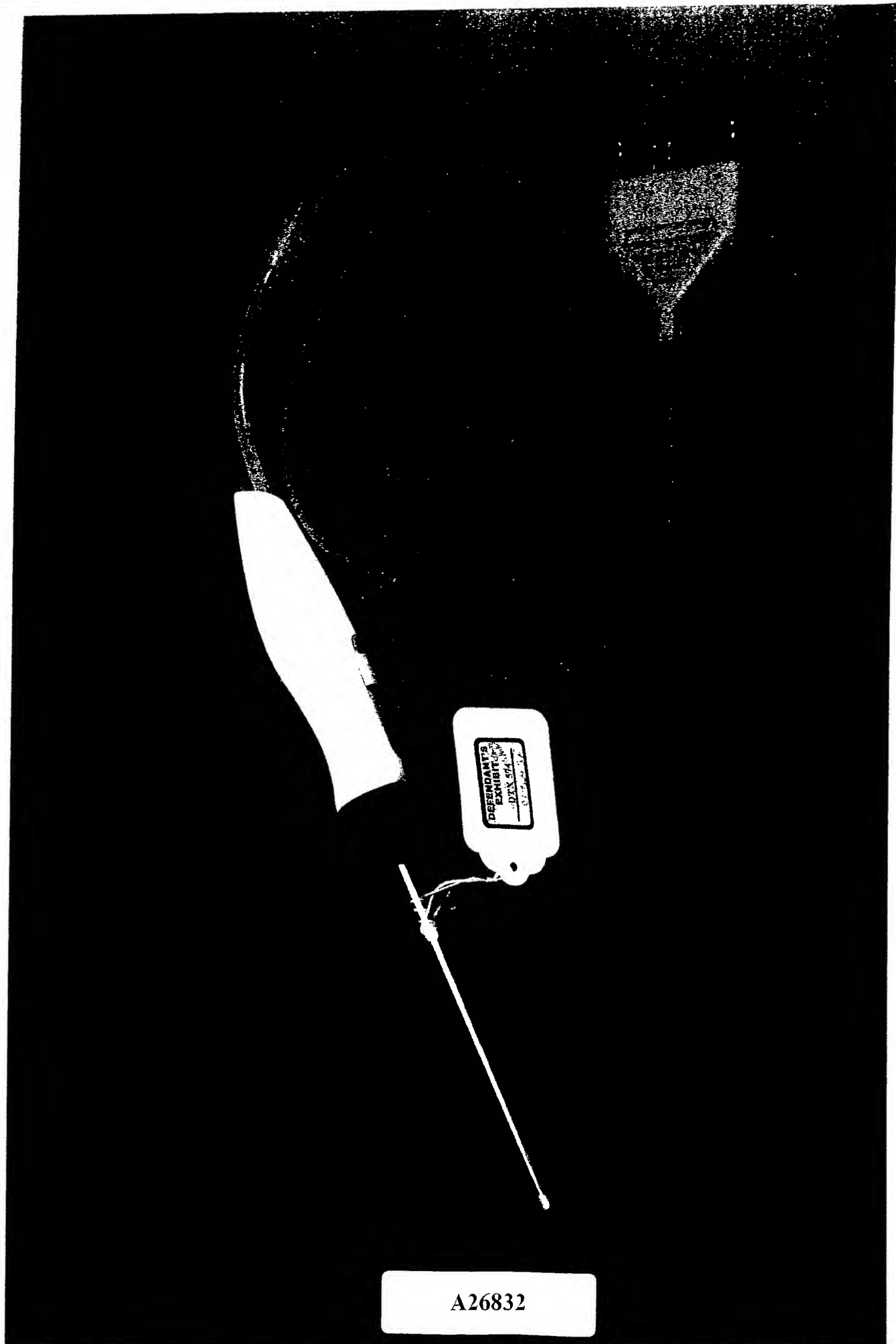
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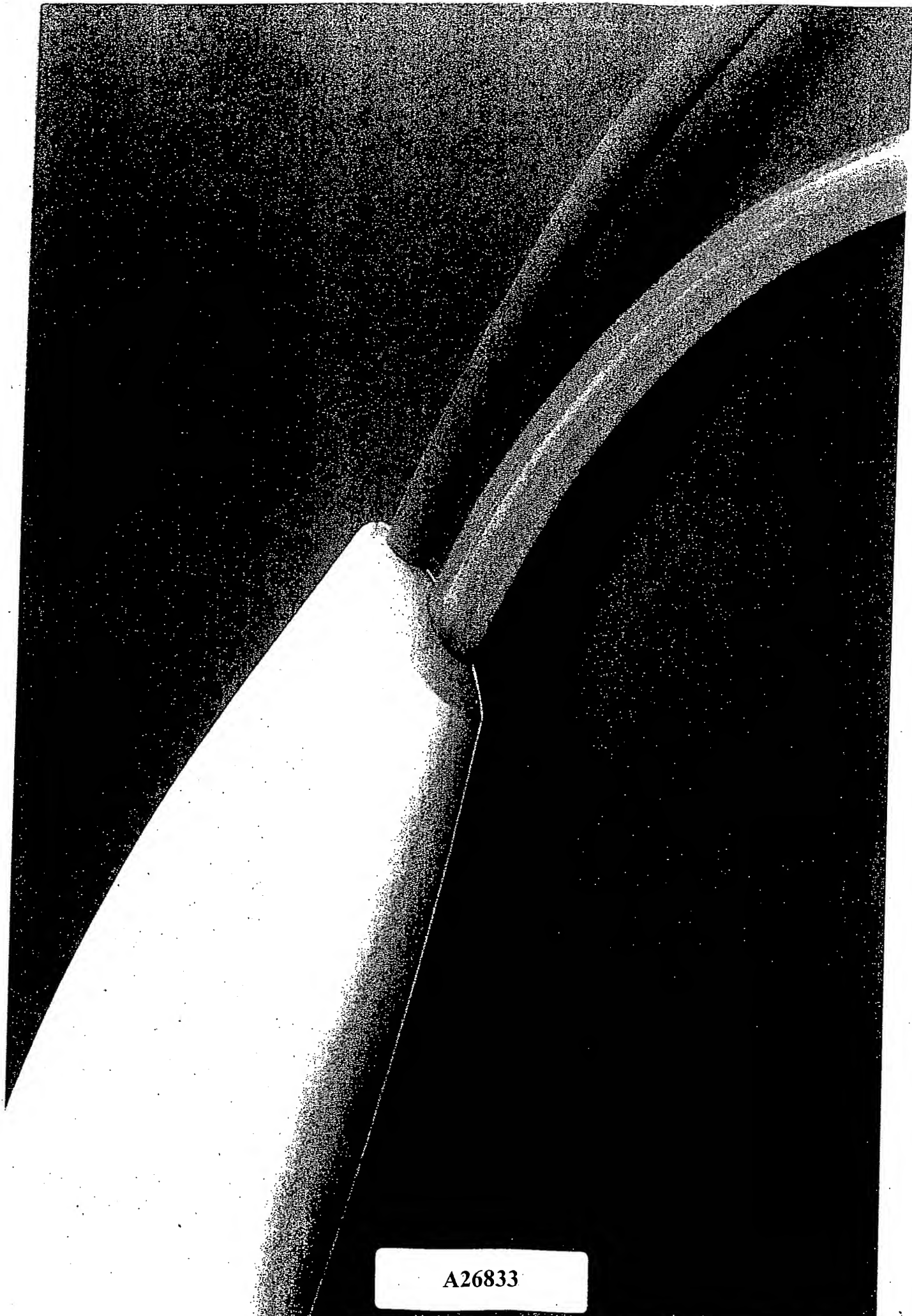
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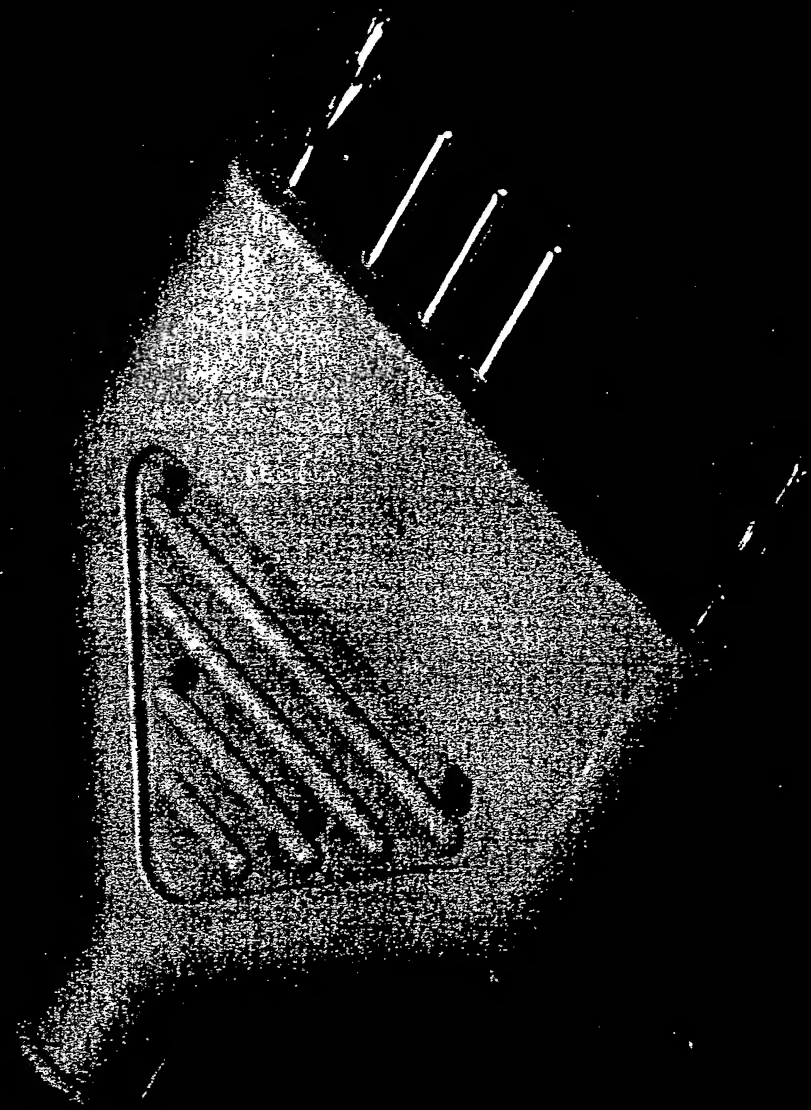
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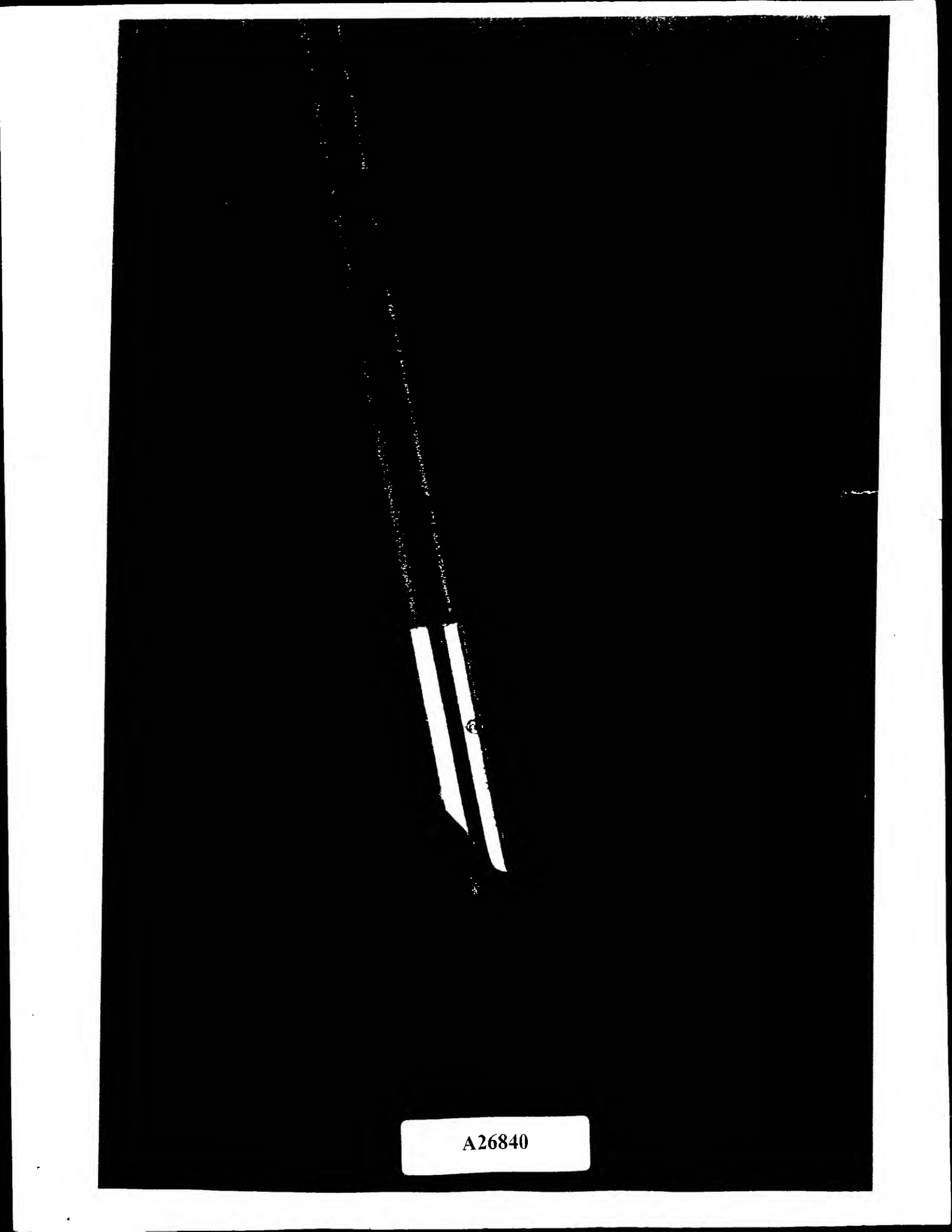


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Painting's
Trial Exhibit
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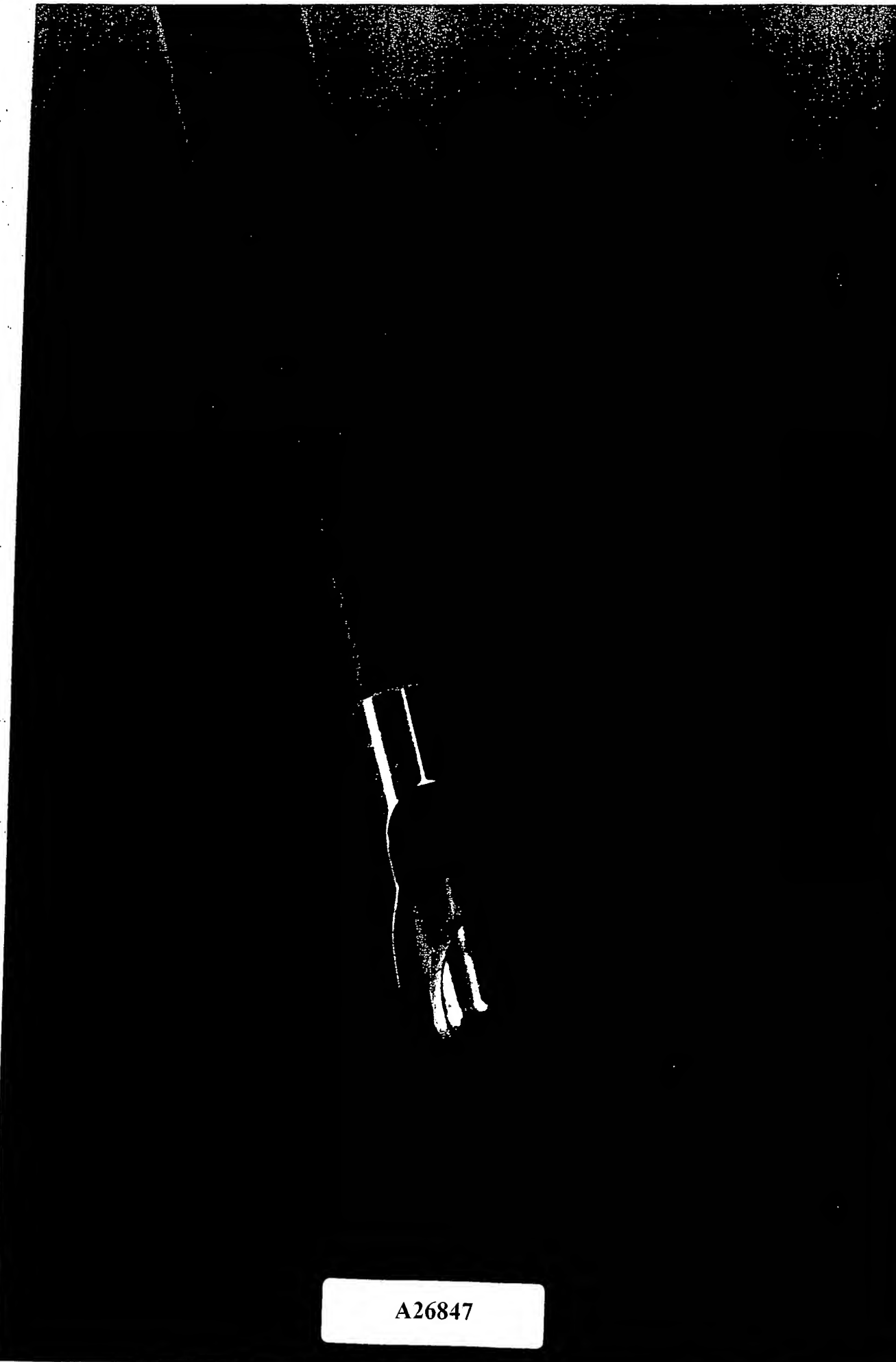
Plaintiff's
Trial Exhibit

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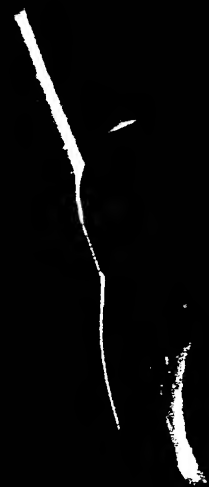
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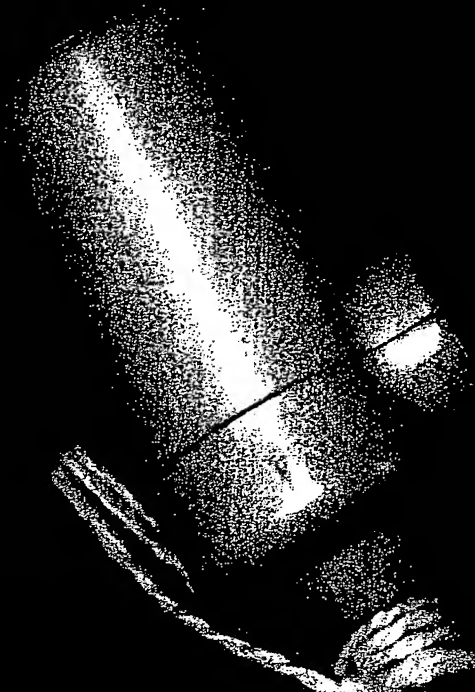
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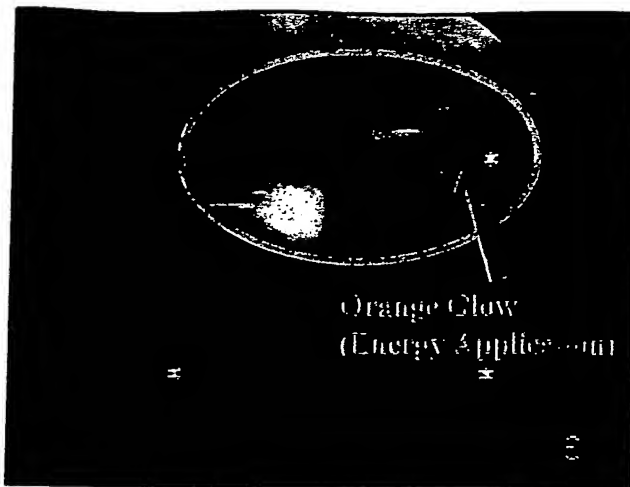
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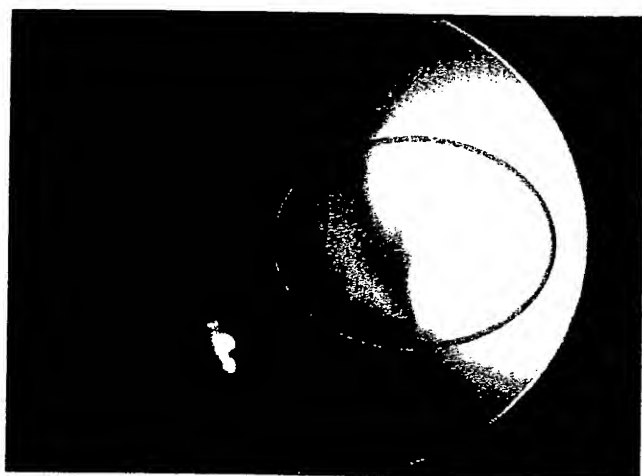
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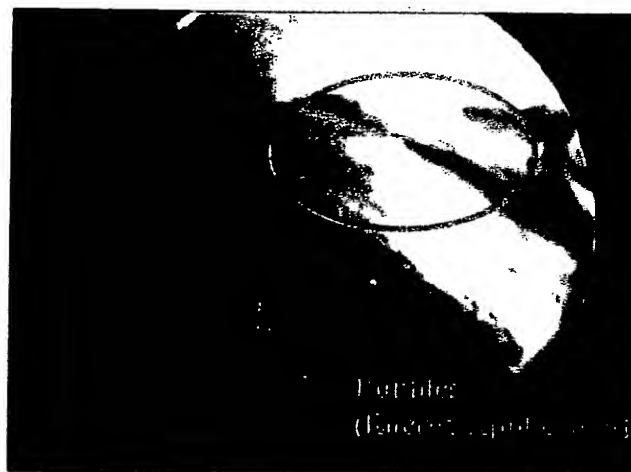
PTX 105: Saphyre (Choti2.mpg)



DTX 315: Saphyre (BP-90S SAD 2-24sec.mpg)



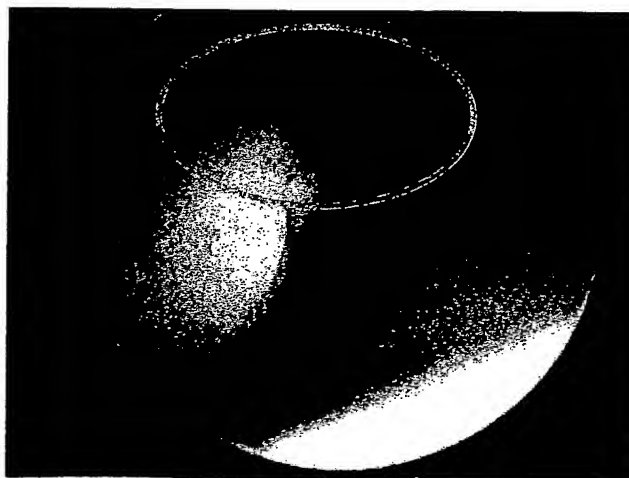
DTX 316: ElectroBlade (E-Blade Dr Cole Coagulation.mpg)



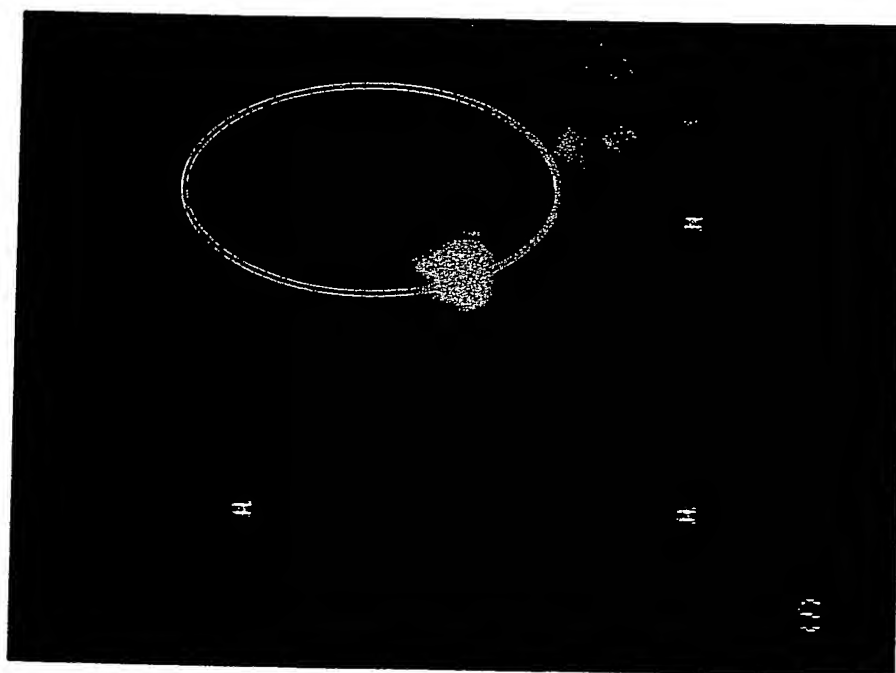
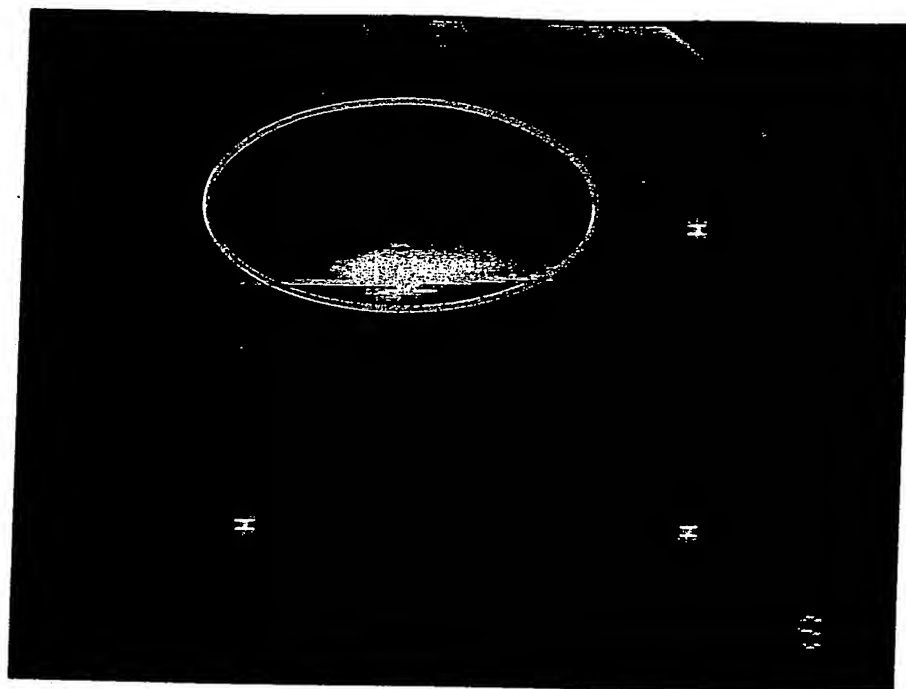
DTX 316: ElectroBlade (E-Blade Dr Cole Coagulation.mpg)



PTX 105: Control RF (Choti8.mpg)

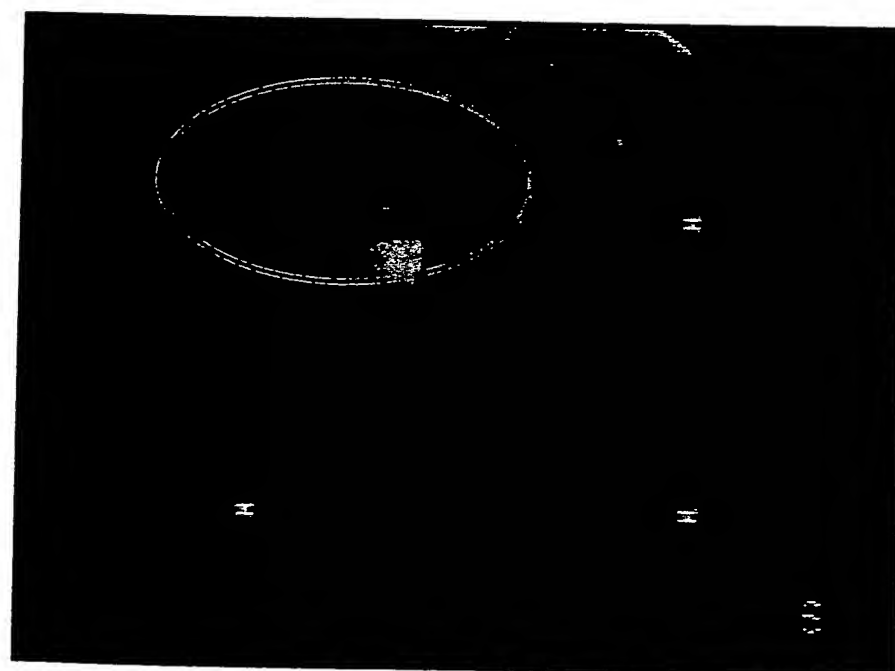
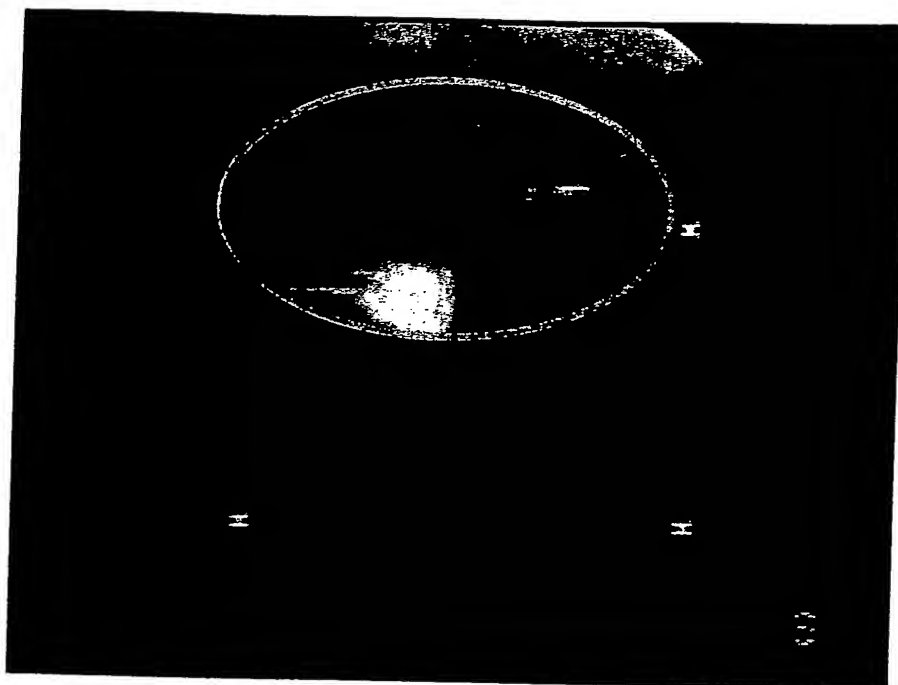


DTX 897: Control RF (Tuft's Lab.mpg)



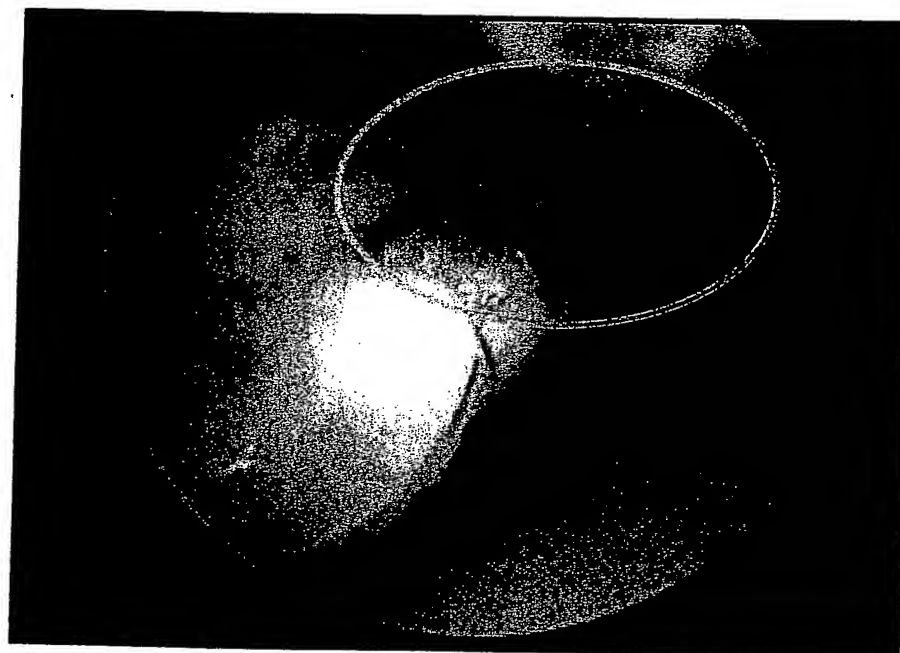
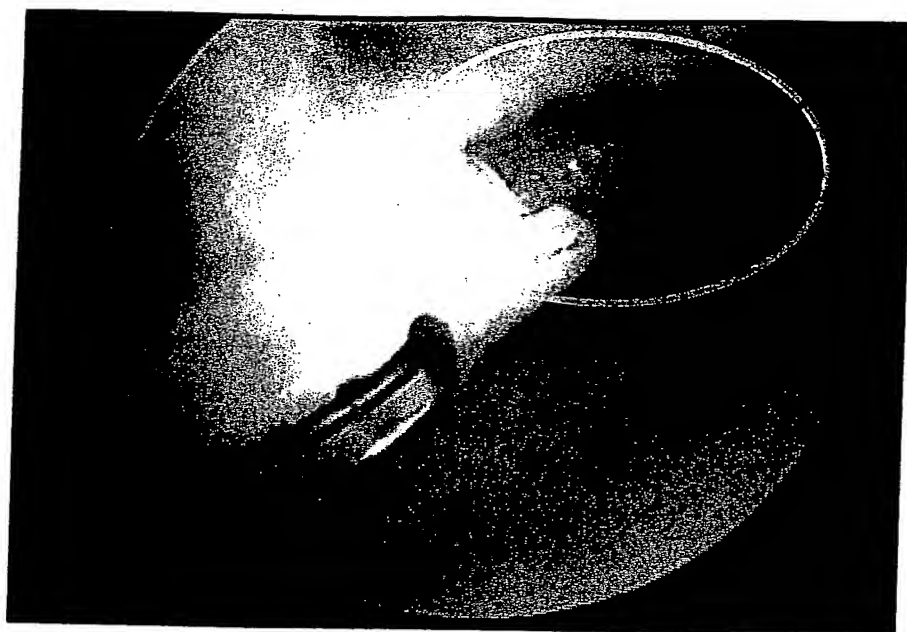
DTX 315: Saphyre (BP-90S SAD 2- 24sec.mpg)

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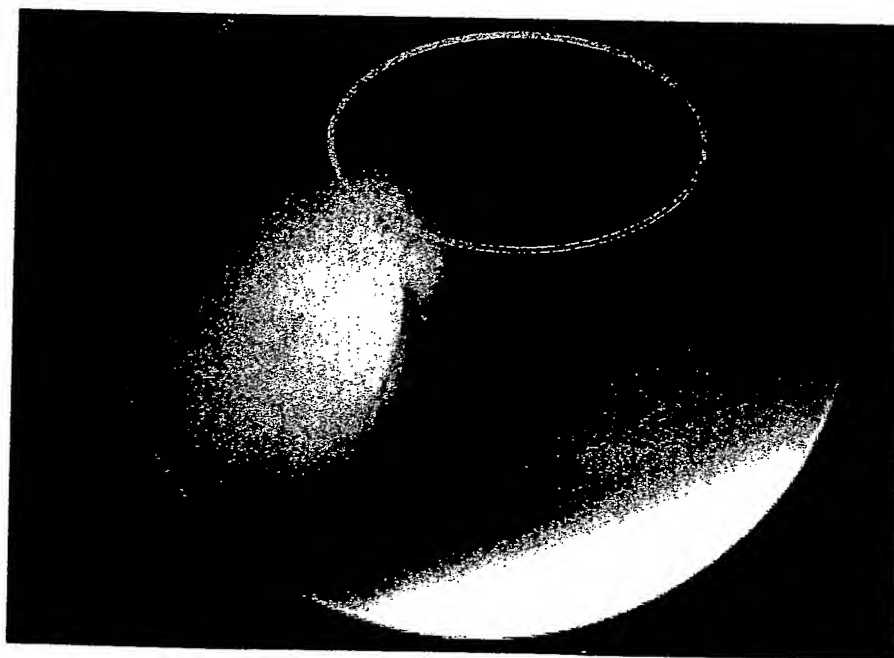
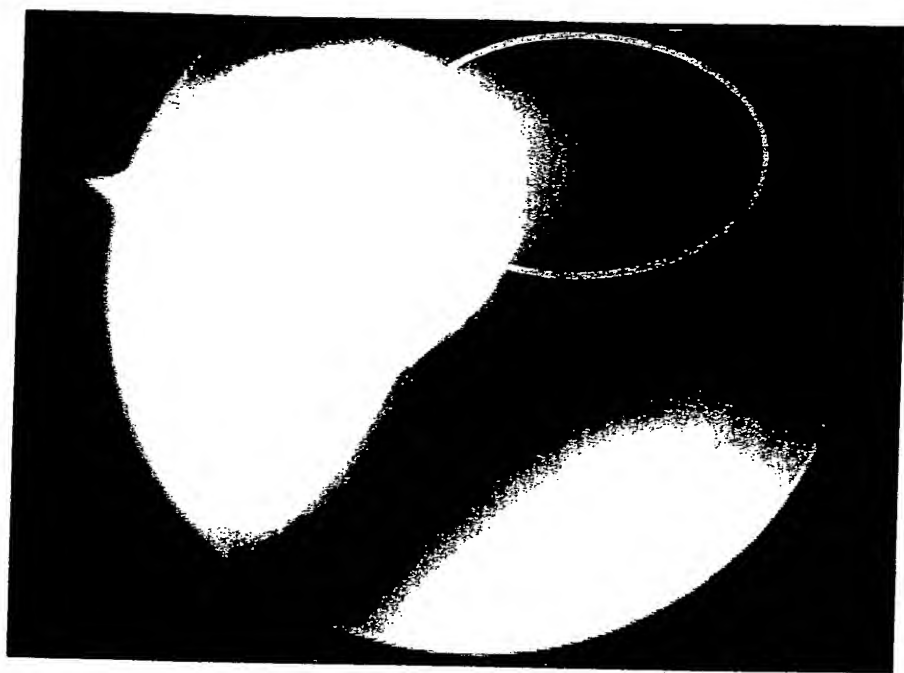
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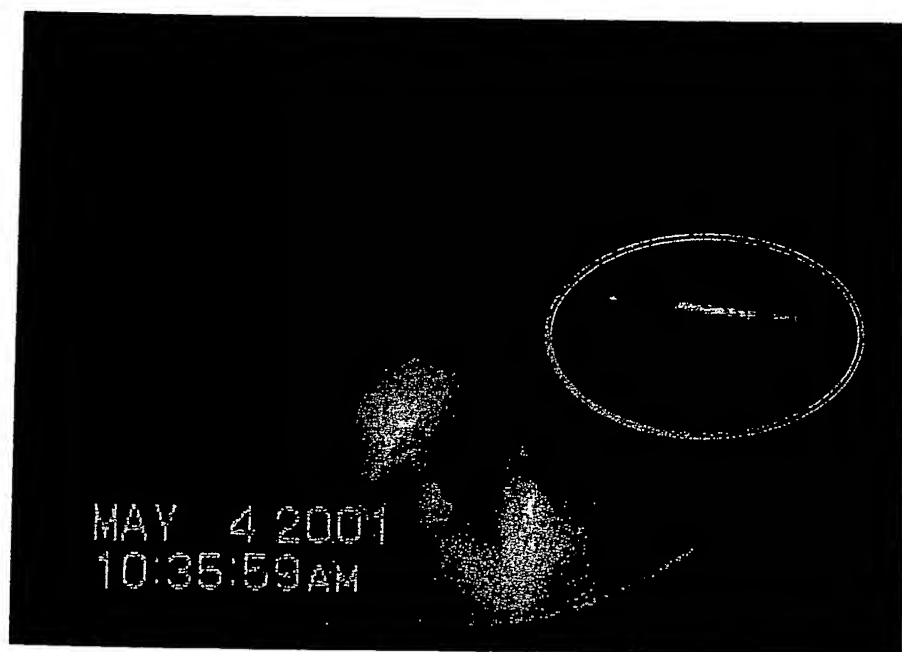
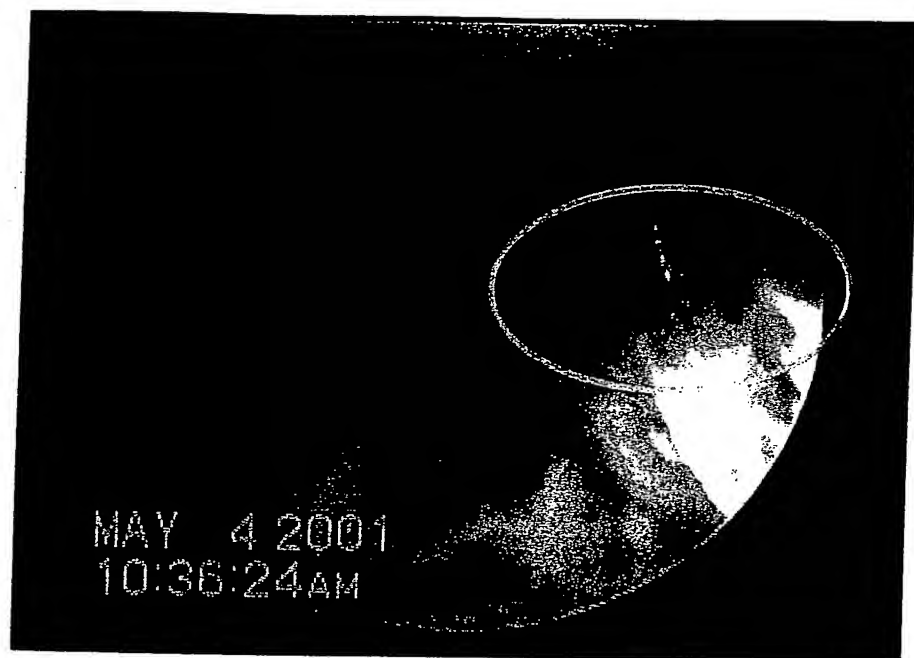
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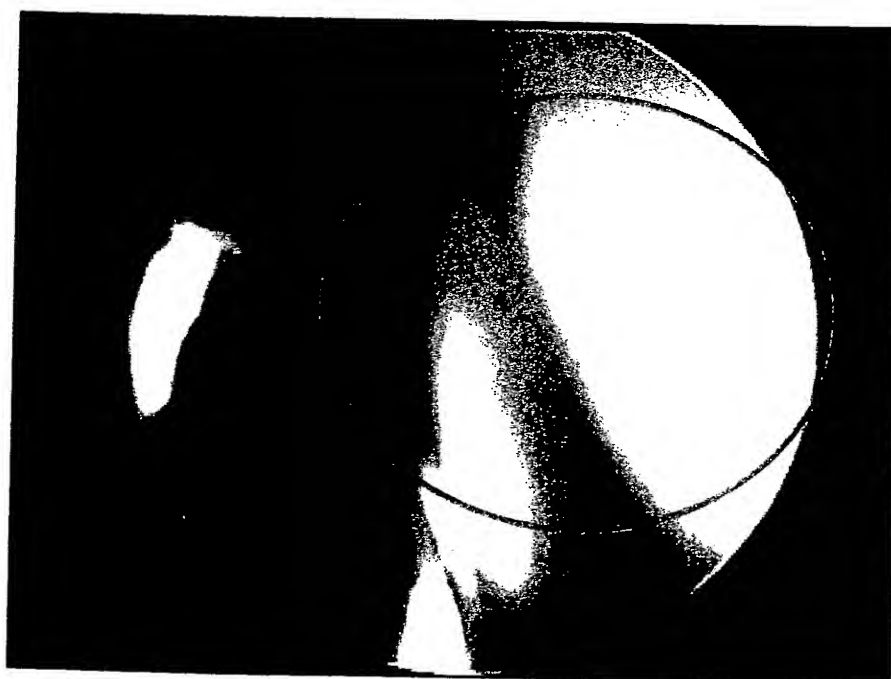
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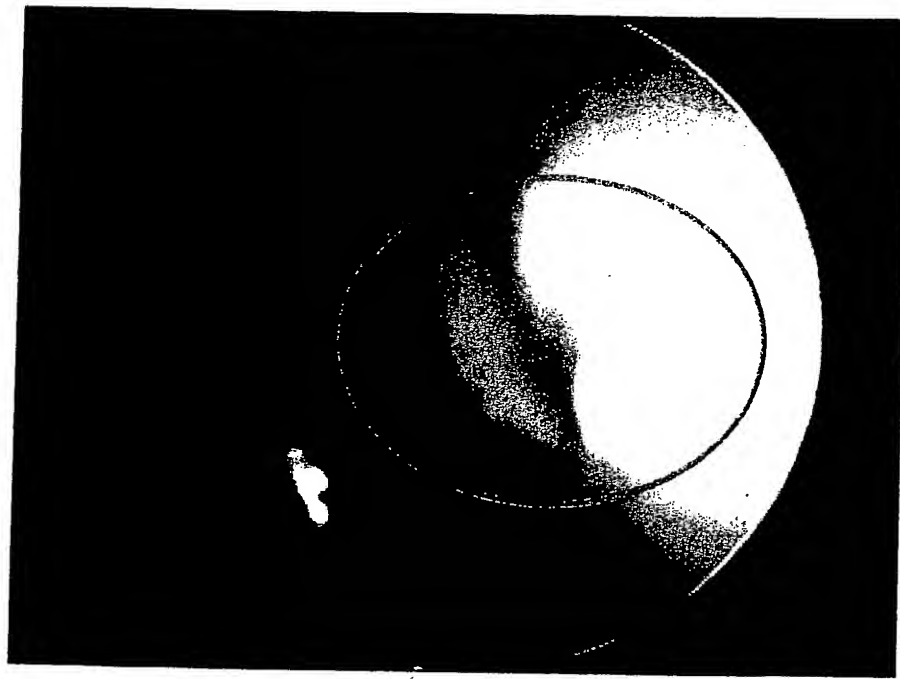
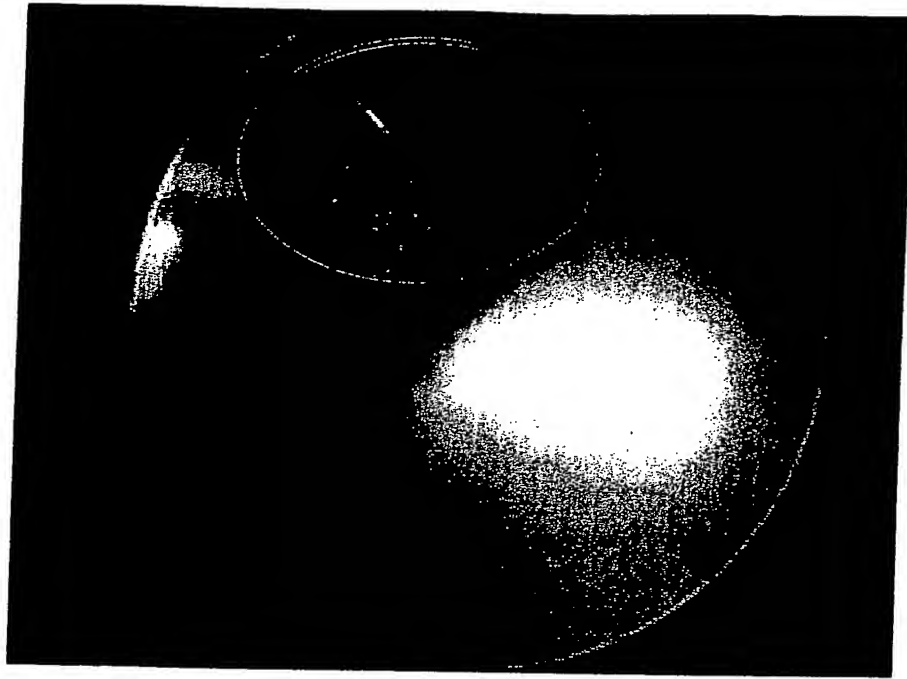
DTX 316: Electroblade(E-Blade Dr Siegel Simultaneous.mpg)

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DTX 316: ElectroBlade (E-Blade Dr Cole Coagulation.mpg)

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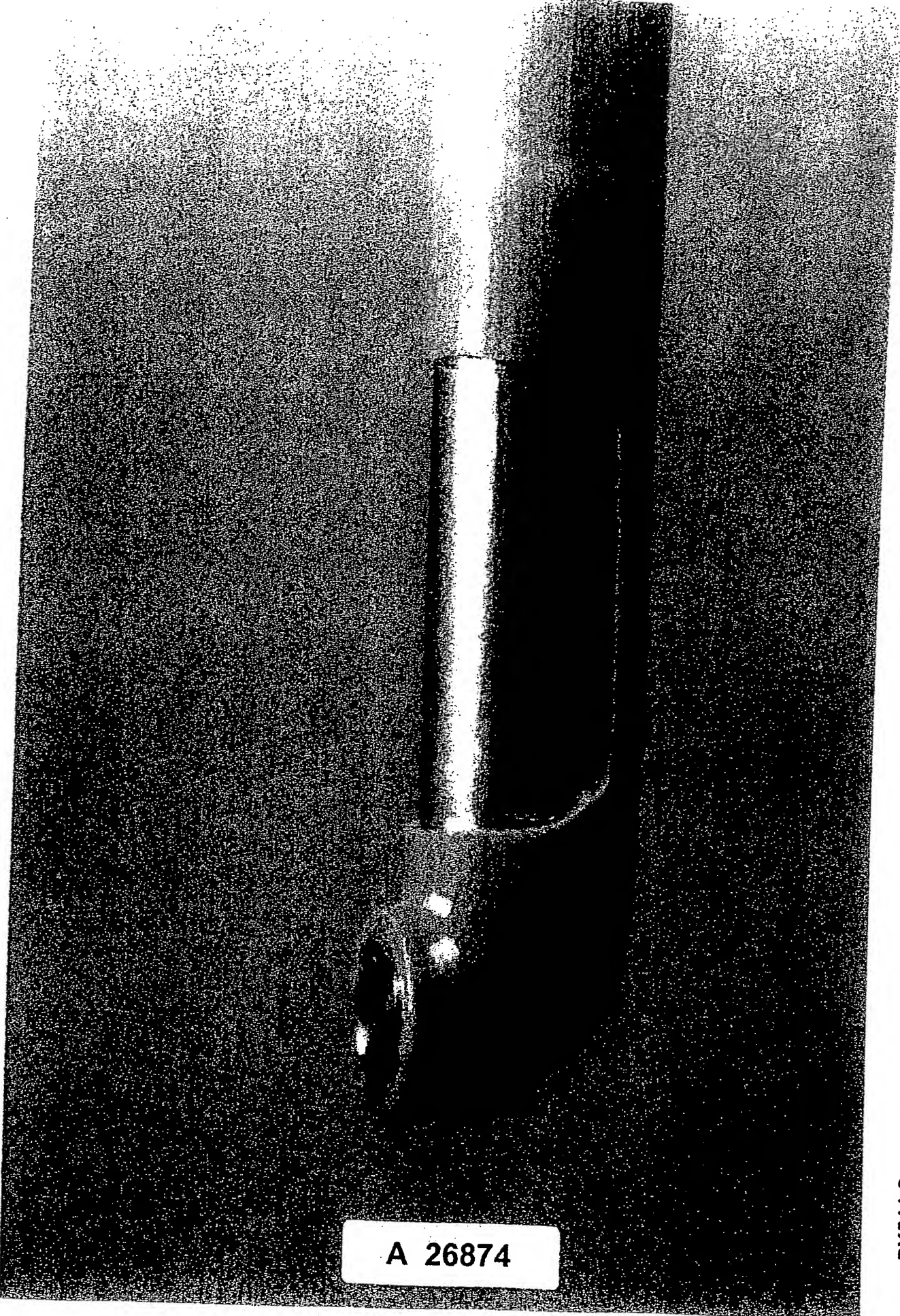


DTX 316: ElectroBlade (E-Blade Dr Cole Coagulation.mpg)

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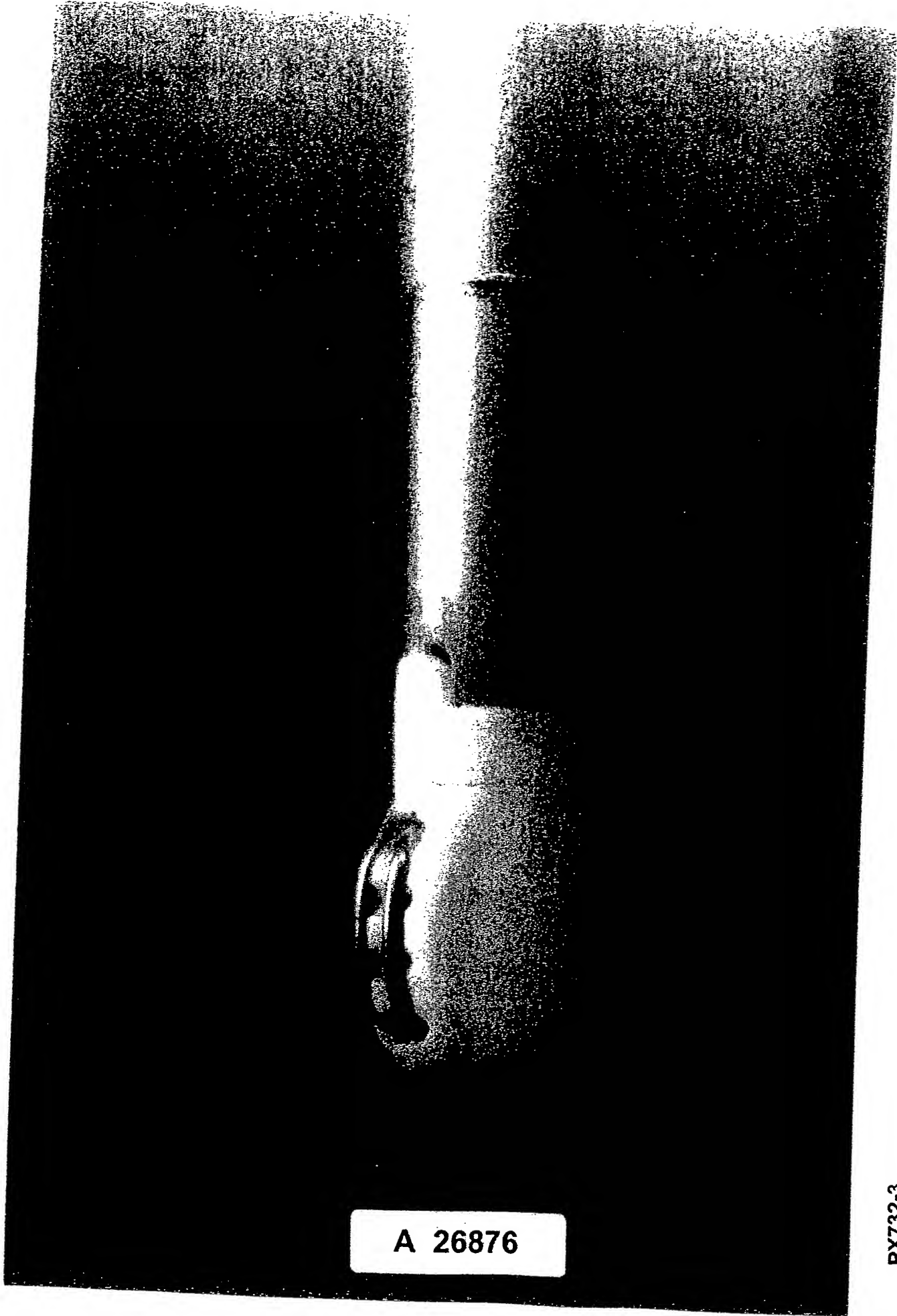
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PX732-3

Dr. Choti's Video (PX 105)

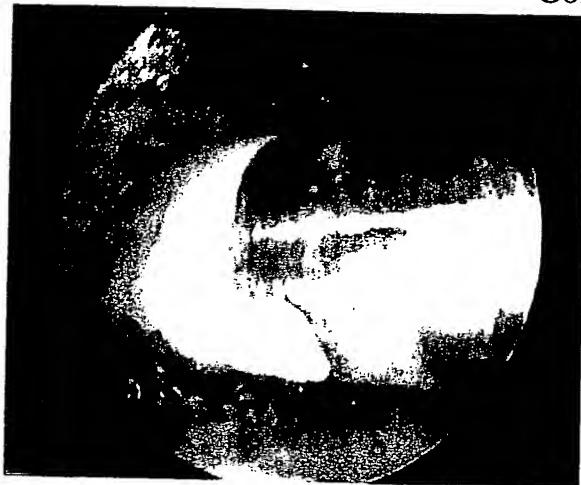
Saphyre



ElectroBlade

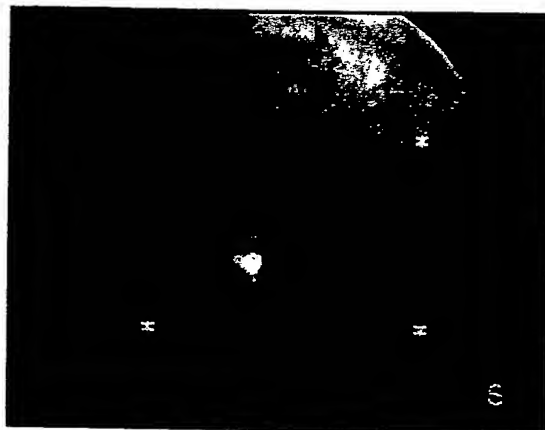


Control RF



A26890

Saphyre Sales Training Video (DTX 315)



A26891



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Arthrocare Corporation
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Sunnyvale, CA 94085

11/19/2004

EXAMINER

HAYES, M.

ART UNIT	PAPER NUMBER
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46

Please find below and/or attached an Office communication concerning this application or proceeding.

Reexamination

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 14, 15, 25, 26, 30, 31, 33, 38, 42, 43, 45, 46, 49, 55, 56, and 63 are rejected under 35 U.S.C. 102(b) as being anticipated by Elasser et al. The Elasser et al. article discloses an electrosurgical system for use with a high frequency power supply and electrically conducting fluid supply including an electrosurgical probe, an electrode terminal, a connector electrically couples the electrode terminal to the power supply having structure near the proximal end of the probe shaft, a return electrode as an outer tubular member that forms a passageway with an insulated member, a control valve positioned on the shaft for controlling flow of electrically conducting fluid, and a fluid delivery element defining a fluid path in electrical contact with the return electrode and electrode terminal seen in Figs. 8 and 9. See translation pg. 4 (first 2 full paragraphs) and summary (pg. 7).

Claims 45, 46, 47, 55, and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by PAO (4,805,616). Pao discloses an electrosurgical system for applying electrical energy to a target site including a high frequency power supply, an electrosurgical probe having a shaft, an electrode terminal near the distal end, a connector to the power supply, a return electrode forming part of the shaft sufficiently spaced to minimize contact between the return electrode and patient's tissue, an electrically conducting fluid supply to direct the fluid to the target site

Art Unit: 3763

electrode and electrode terminal for directing fluid to generate a current flow between the return electrode and the electrode terminal. See col. 1, lines 10-13; col. 2, lines 22-54; col. 3, line 29 - col. 4, line 7; col. 4, line 36 - col. 5, line 6; col. 5, lines 27-41; col. 6, lines 1-4; and figs. 7, 8, 9.

Claims 45, 46, and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by KAMMERLING (US Patent No. 5,217,459). Kammerling discloses an electrosurgical system for applying electrical energy to a target site including a high frequency power supply, an electrosurgical probe having a shaft, an electrode terminal near the distal end, a connector to the power supply, a return electrode forming part of the shaft, and an electrically conducting fluid supply to direct the fluid to the target site such that the fluid generates a current flow path between the return electrode and electrode terminal. See col. 1, lines 18-33; col. 2, lines 22-49; col. 2, line 67 - col. 3, line 5; and fig. 1.

Claims 45, 46, and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by RYDELL (US Patent No. 5,007,908). Rydell discloses an electrosurgical system for applying electrical energy to a target site including a high frequency power supply, an electrosurgical probe having a shaft, an electrode terminal 42 near the distal end, a connector to the power supply, a return electrode 22 forming part of the shaft, and an electrically conducting fluid (saline) supply to direct the saline to the target site to generate a current flow path between the return electrode and electrode terminal. See col. 3, lines 49-56. Though Rydell does not mention the current path through the saline, this current inherently occurs when the electrically conductive saline is between the electrode terminal and return electrode. See also col. 1, line 35 - col. 2, line 2.

teachings of the Roos and Elasser article in the invention of Roos in order to contain leakage currents and provide an electrosurgical device that is safer to use.

Original Claims Confirmed Allowable

Original claims 3, 4, 6-13, 16-24, 27-29, 34-37, 39-41, 44, 48, 50-54, 57, 60, 62, and 64 are confirmed as being allowable over the art of record.

The following claims are confirmed for reciting limitations in an electrosurgical system comprising a probe having a electrode terminal near the distal end, a connector, return electrode, and a fluid delivery element defining a fluid path in electrical contact with the return electrode and the electrode terminal for directing fluid along the path to generate a current flow path between the return electrode and electrode terminal. These limitations are:

Claim 3: an insulating member surrounding the return electrode that forms a part of the probe shaft

Claim 4: the return electrode as an inner tubular member and fluid delivery element as a lumen within the return.

Claims 6-8: a separate fluid supply instrument having a portion as the return electrode.

Claims 9-13: an array of electrically isolated electrode terminals disposed near the distal end of the probe shaft.

Claims 16-22: a current limiting element for controlling current flow through the electrode terminal.

Claim 23: electrode terminal height of 0-2mm exposed to conducting fluid

Claim 24: return electrode length 0.5-10mm.

Art Unit: 3763

Claims 53-54: an array of electrically isolated electrode terminals disposed near the distal end of the probe shaft.

Claim 57: a current limiting element to control current flow through the electrode terminal to inhibit power dissipation around the target site.

Claim 60: means for controlling power based on electrical impedance between electrodes.

Claim 62: using ceramic, glass, or glass/ceramic compositions.

Claim 64: locating the return electrode on the patient's body surface.

Papers Submitted in Response to Action

In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response to this Office action. Submissions after the next Office action, which is intended to be a final action, will be governed by the requirements of 37 CFR 1.116, which will be strictly enforced.

Litigation

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 4,981,467 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Shorter Oxford English Dictionary

ON HISTORICAL PRINCIPLES

Fifth edition

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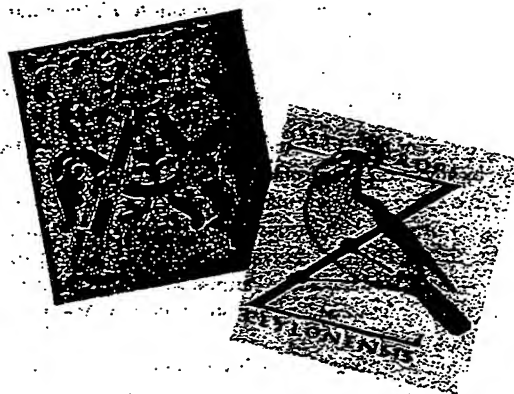
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The
**American
Heritage® Dictionary**
of the English Language

FOURTH EDITION



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Arnsberg (ärnz/bərg, ärnz/bèrk) A city of west-central Germany south-southeast of Münster. It was founded in 1077 and received a municipal charter in 1237. Population: 75,135.

Aroe Islands (ä-roo) See **Aru Islands**.

aroid (ä-roid', är'-) *n.* Any of various perennial herbs in the arum family, including houseplants such as the anthurium, dieffenbachia, and philodendron and having tiny flowers crowded in a spadix that is subtended by a spathe. [**AR**(UM) + **-OID**.] —**aroid'** *adj.*

aroint (ä-roint') *v.* **Archaic** Used in the imperative to express an order of dismissal: "Aroint thee, wench!" (Shakespeare). [Origin uncertain.]

aroma (ä-rö-mä) *n.* 1a. A quality that can be perceived by the olfactory sense: the aroma of garlic and onions. See **synonyms** at **smell**. b. A pleasant characteristic odor, as of a plant, spice, or food: the aroma of roses. See **synonyms** at **fragrance**. 2. A distinctive, intangible quality; aura: the aroma of success. [Alteration (influenced by Latin *aroma*, *aroma*) of Middle English *aromat*, aromatic substance, from Old French, from Latin *aromata*, pl. of *aroma*, from Greek, aromatic herbs.]

aroma-ther-a-py (ä-rö-mä-thér'-ä-pē) *n., pl. -pies* The use of selected fragrant substances in lotions and inhalants in an effort to affect mood and promote health.

aromatic (är'-mä-tik) *adj.* 1. Having an aroma; fragrant or sweet-smelling: aromatic herbs. 2. Chemistry Of, relating to, or containing one or more six-carbon rings characteristic of the benzene series and related organic groups. *♦ n.* 1. An aromatic plant or substance, such as a medication. 2. Chemistry An aromatic organic compound. —**ar'o-mat'i-cal-ly** *adv.* —**ar'o-mat'i-cit-ies** *n.*

aromaticity (är'-mä-tis'-tē, ä-rö-mä-) *n., pl. -ties* Aromatic quality or character, especially the distinctive structure or properties of the aromatic chemical compounds.

aromatize (ä-rö-mä-tīz') *v.* -tized, -tizing, -tiz-es 1. To make aromatic or fragrant: *swirled the wine to aromatize it*. 2. Chemistry To subject to a reaction that converts a substance into an aromatic compound. —**ar'o-mat-i-zä-tion** (-tī-zä-shən) *n.*

Aroostook (ä-röös-tak, -röös-) A river rising in northern Maine and flowing about 225 km (140 mi) generally eastward to the St. John River in New Brunswick, Canada.

arose (ä-röz') *v.* Past tense of **arise**.

around (ä-round') *adv.* 1a. On all sides: *dirty clothes lying around*. b. In close to all sides from all directions: *a field bordered around with tall trees*. 2. In a circle or with a circular motion: *spun around twice*. 3. In circumference or perimeter: *a pond two miles around*. 4. In succession or rotation: *passed the collection plate around; seasons that rolled around each year*. 5. In or toward the opposite direction or position: *whipped around to face the attacker*. 6a. To or among various places; here and there; wander around. b. To a specific place: *Come around again sometime*. 7. In or near one's current location: *waited around for the next flight*. 8. From the beginning to the end: *frigid weather the year around*. 9. Approximately; about: *weighed around 30 pounds; around \$1.5 billion in debt*. *♦ prep.* 1. On all sides of: *trees around the field*. 2. In such a position as to encircle or surround: *a sash around the waist*. 3a. Here and there within; throughout: *on the political stump around the country*. b. In the immediate vicinity of; near: *She lives around Norfolk*. 4. On or to the farther side of: *the house around the corner*. 5. So as to pass, bypass, or avoid: *a way around an obstacle; got around the difficulty somehow*. 6. Approximately at: *woke up around seven*. 7. In such a way as to have a basis in: *center in: an economy focused around farming and light industry*. *♦ adj.* 1. Being in existence: *Our old dog is no longer around*. 2. Being in evidence; present: *asked if the store manager was around*. —**Idioms:** *been around informal* Had many and varied experiences; been experienced in the ways of the world: *wanted his chief of staff to be someone who has been around*. [Middle English: probably *a-*, *in*; see **A-** + **round**, *n.*; see **ROUND**.]

around-the-clock (ä-round-'thä-klok') *adj.* Variant of **round-the-clock**.

arouse (ä-rouz') *v.* **aroused**, **arousing**, **arouses** —*tr.* 1. To awaken from or as if from sleep. 2. To stir up; excite: *The odd sight aroused our curiosity*. See **synonyms** at **provoke**. 3. To stimulate sexual desire in. —*intr.* To be or become aroused. [From **ROUSE**, on the model of such pairs as **rise**, **arise**.] —**ar'ous'al** *n.*

Arp (ärp), Jean or Hans 1887–1966. French artist and a founder of **abstractionism**. He is particularly noted for his abstract reliefs and three-dimensional sculptures.

ARP *abbr.* Address Resolution Protocol

Arpád (är-pád) Died 907. Hungarian national hero who founded the first Hungarian dynasty (c. 884).

arpeg-gi-ate (är-pē-jē-ät') *v.* -ated, -ating, -ates 1. To play a song (a chord) in arpeggio. 2. To represent (the tones of a chord) as separate notes, as on a staff. —**ar'peg-giä'tor** *n.*

arpeg-gio (är-pē-jē-ō, -pē-ō) *n., pl. -os* 1. The sounding of the tones of a chord in rapid succession rather than simultaneously. 2. A chord played or sung in this manner. [Italian, from *arpeggiare*, to play the harp, from *arpa*, harp, of Germanic origin. See **HARP**.]

arpent (är-päw') *n.* Any of various French units of land measurement, especially one used in parts of Canada and the southern United States and equal to about 0.4 hectare (0.85 acre). [French, from Old French *arpent*, from Latin *arpensis*, half acre. See **per** in Appendix I.]

arque-bus (är-kä-bus, -kwä-) *n.* Variant of **harquebus**.

arr. *abbr.* 1. arranged 2a. arrival b. arrived

ar-ra-ca-cha (är-rä-kä-chä) *n.* A perennial Andean herb (*Armacacia anthuriza*) in the parsley family, grown for its large, fleshy, edible roots. Also called **apio**. [Spanish, from Quechua *aracacha*.]

ar-rack (är-räk, ä-räk') *n.* A strong alcoholic drink of the Middle East and the Far East, usually distilled from fermented palm sap, rice, or molasses. [Arabic *araq*, sweat, strong clear liquor made from raisins, from *arika*, to sweat. See **rq** in Appendix I.]

arraign (ä-rän') *v.* -raigned, -raign-ing, -raigns 1. Law To call (an accused person) before a court to answer the charge made against him or her by indictment, information, or complaint. 2. To call to account; accuse: "Johnson arraigned the modern politics of this country as entirely devoid of all principle" (James Boswell). [Middle English *arreiner*, from Old French *araisier*, from Vulgar Latin **adraiñdre*, to call to account: Latin *ad-*, *ad-* + Latin *rañd*, *rañdō*, account; see **REASON**.] —**ar-raign'er** *n.* —**ar-raign'ment** *n.*

Ar-ran (är-rän) A granite island of western Scotland in the Firth of Clyde. It is a resort area noted for its scenery and its hunting and fishing. **ar-range** (ä-ränj') *v.* -ranged, -rang-ing, -ranges —*tr.* 1. To put into a specific order or relation; dispose: *arrange shoes in a neat row*. 2. To plan or prepare for: *arrange a picnic*. 3. To bring about an agreement concerning; settle: "It has been arranged for him by his family to marry a girl of his own class" (Edmund Wilson). 4. Music To reset (a composition) for other instruments or voices or as another style of performance. —*intr.* 1. To come to an agreement. 2. To make preparations; plan: *arrange for a big wedding*. [Middle English *arangen*, from Old French *arengier*; *e-*, to (from Latin *ad-*; see **AD-**) + *rengier*, to put in a line (from *reng*, line; see **sker** in Appendix I).] —**ar-rang'er** *n.*

Synonyms *arrange*, *marshal*, *order*, *organize*, *sort*, *systematize* These verbs mean to distribute or dispose persons or things properly or methodically: *arranging figures numerically; to marshal all relevant facts for presentation; ordered my chaotic life; organized the fundraiser; sorted the sweaters by color; systematized the assorted files*.

ar-range-ment (ä-ränj'ment) *n.* 1. The act or process of arranging: *the arrangement of a time and place for the meeting*. 2. The condition, manner, or result of being arranged; disposal: *provided flowers and saw to their arrangement*. 3. A collection of things that have been arranged: *the circular arrangement of megaliths called Stonehenge*. 4. A provision or plan made in preparation for an undertaking. Often used in the plural: *made arrangements for surgery*. 5. An agreement or settlement; a disposition: *Our dog will be looked after by arrangement with a neighbor*. 6. Music a. An adaptation of a composition for other instruments or voices or for another style of performance. b. A composition so arranged.

ar-rant (är-ränt) *adj.* Completely such; thoroughgoing: *an ar-rant fool; the ar-rant luxury of the ocean liner*. [Variant of **ERRANT**.] —**ar-rant-ly** *adv.*

ar-ras (är-räs) *n., pl. arras* 1. A wall hanging; a tapestry. 2. A curtain or wall hanging, especially one of Flemish origin. [Middle English, after **ARRAS**.]

Ar-ras (är-räs, ä-räs') A city of northern France south-southwest of Lille. It was a famous woolen and tapestry center in the Middle Ages. Population: 41,736.

Ar-rau (ä-roo'), Claudio 1903–1991. Chilean-born American pianist particularly noted for his interpretation of Beethoven's piano works.

ar-ray (ä-rä) *v.* -rayed, -ray-ing, -rays 1. To set out for display or use; place in an orderly arrangement: *arrayed the whole regiment on the parade ground*. 2. To dress in finery; adorn. *♦ n.* 1. An orderly, often imposing arrangement: *an array of royal jewels*. 2. An impressively large number, as of persons or objects: *an array of heavily armed troops; an array of spare parts*. See **synonyms** at **display**. 3. Splendid attire; finery. 4. Mathematics a. A rectangular arrangement of quantities in rows and columns, as in a matrix. b. Numerical data linearly ordered by magnitude. 5. Computer Science An arrangement of memory elements in one or more planes. [Middle English *arries*, from Anglo-Norman *arrier*, from Vulgar Latin **arredare*. See **reidh** in Appendix I.]

ar-ray-al (ä-rä'al) *n.* 1. The act or process of arranging in an orderly or imposing manner. 2. Something so arranged; an array.

ar-rear-age (ä-rär-jē) *n.* 1. The state of being behind in the fulfillment of obligations or of being overdue in payment. 2. A payment owed.

ar-rears (ä-rärz') *pl.n.* 1. An unpaid, overdue debt or an unfulfilled obligation. 2. The state of being behind in fulfilling obligations: *an account in arrears*. [Middle English *arres*, from *arere*, behind, from Old French *arere*, from Vulgar Latin **ad retrā*, backward: Latin *ad*, to; see **AD-** + Latin *retrā*, behind; see **re-** in Appendix I.]

ar-rest (ä-rést') *v.* -rest-ed, -rest-ing, -rests —*tr.* 1. To stop; check: *a brake that automatically arrests motion; arrested the growth of the tumor*. 2. To seize and hold under the authority of law. 3. To capture and hold briefly (the attention, for example); engage. —*intr.* To undergo cardiac arrest: *The patient arrested en route to the hospital*. *♦ n.* 1a. The act of detaining in legal custody: *the arrest of a criminal suspect*. b. The state of being so detained: *a criminal under arrest*. 2. A device for stopping motion, especially of a moving part. 3. The act of stopping or the condition of being stopped. [Middle English *arresten*, from Old French *arrestre*, from Vulgar Latin **arrestare*: Latin *ad-*, *ad-* + Latin *restare*, to stand still (re-, *re-* + *stare*, to stand; see **stā-** in Appendix I).] —**ar-rest'-able** *adj.* —**ar-rest'er**, **ar-res'tor** *n.* —**ar-rest'ment** *n.*

ar-rest-ee (ä-rést-ē) *n.* One who is under arrest.

ar-rest-ing (ä-rést-ing) *adj.* Attracting and holding the attention; striking. See **synonyms** at **noticeable**. —**ar-rest'ing-ly** *adv.*

Ar-rhe-ni-us (ä-ré-né-us, ä-ré-), Svante August 1859–1927. Swedish physicist and chemist. He won a 1903 Nobel Prize for his electrolytic theory of dissociation.

ar-rhyth-mi-a (ä-rith-mé-ä) *n.* An irregularity in the force or rhythm of the heartbeat. [New Latin, from Greek *arrhythmia*, lack of

ä pat	oi boy
ä pay	ou oot
är care	öo took
ä father	öo boot
ä pet	ö cat
ä be	tr urge
l pit	th thin
l pie	th this
tr pier	hw which
ö pet	zh vision
ö toe	ä about, item
ö paw	♦ regionalism

Stress marks: ' (primary);
' (secondary), as in
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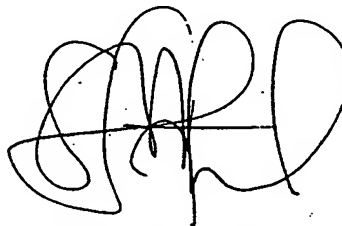
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